

May 31, 2006

FINAL RULE RECONSIDERING TWO MERCURY ACTIONS:

**(1) RECONSIDERATION OF RULE REVISING EARLIER REGULATORY FINDING
AND REMOVING CERTAIN ELECTRIC STEAM GENERATING UNITS FROM THE
LIST OF SOURCE CATEGORIES;
AND (2) RECONSIDERATION OF THE CLEAN AIR MERCURY RULE**

FACT SHEET

ACTION

- On May 31, 2006, the U.S. Environmental Protection Agency (EPA) took final action on petitions to reconsider two actions regarding the air pollutant Mercury:
 - Its determination that regulation of electric utility steam generating units under section 112 of the Clean Air Act was neither necessary nor appropriate (the section 112 rule); and
 - The Clean Air Mercury Rule (CAMR)
- EPA's March 2005 Clean Air Mercury Rule is the first of its kind - and the U.S. is the first nation in the world - to regulate mercury emissions from coal-fired power plants. The rule creates a market-based cap-and-trade program that will permanently cap utility mercury emissions in two phases:
 - The first phase of the rule sets a cap of 38 tons per year and due to incentives created by the cap and trade program EPA projects that emissions will decrease from 48 tons to 31 tons beginning in 2010;
 - Emissions will continue to decline thereafter until they are reduced to the second phase cap of 15 tons when the program is fully implemented.
- The mandatory declining caps, coupled with significant penalties for noncompliance, will ensure that mercury reduction requirements are achieved and sustained.

EPA'S FINAL DECISION ON THE SECTION 112 RULE

- Following the promulgation of the final *section 112 rule*, EPA received two petitions for reconsideration.
- One petition was submitted by 14 States: New Jersey, California, Connecticut, Delaware, Illinois, Maine, Massachusetts, New Hampshire, New Mexico, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin.

- The other petition was submitted by five environmental groups and four Indian Tribes: the Natural Resources Defense Council, the Clean Air Task Force, the Ohio Environmental Council, the U.S. Public Interest Research Group, the Natural Resources Council of Maine; the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Penobscot Indian Nation, and the Passamaquoddy Tribe of Maine.
- EPA agreed to reconsider certain aspects of the final section 112 rule, including:
 1. Legal issues underlying the decision; and
 2. The methodology used to assess the amount of utility-attributable mercury levels in fish tissue and the public health implications of those levels.
- After carefully considering the petitions and the information that was submitted during the public comment period, EPA has determined that its original determination as presented in the final Section 112(n) Revision Rule was correct. EPA is reaffirming its action.

EPA'S FINAL DECISION ON THE CLEAN AIR MERCURY RULE

- Following promulgation of the final Clean Air Mercury Rule, the EPA Administrator received four petitions for reconsideration. Petitions for reconsideration were filed by:
 1. 14 States: New Jersey, California, Connecticut, Delaware, Illinois, Maine, Massachusetts, New Hampshire, New Mexico, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin.
 2. Five environmental groups: the Natural Resources Defense Council, the Clean Air Task Force, the Ohio Environmental Council, the U.S. Public Interest Research Group, and the Natural Resources Council of Maine.
 3. Jamestown Board of Public Utilities.
 4. Integrated Waste Service Association.
- EPA agreed to reconsider the following seven aspects of the final rule:
 1. The method used to apportion the national caps to individual states;
 2. The definition of "designated pollutant;"
 3. EPA's subcategorization for new subbituminous coal-fired units subject to New Source Performance standards (NSPS);
 4. The statistical analysis used for the NSPS;
 5. The highest annual average mercury content used to derive the NSPS;
 6. The definition of covered units as including municipal waste combustors; and
 7. The definition of covered units as including some industrial boilers.
- In response to these requests for reconsideration, EPA is making the following changes to the Clean Air Mercury Rule:

- Adjusting the heat input values for a single unit in Alaska and making the appropriate adjustment to the State of Alaska budget. Based on the change to this one unit, EPA has recalculated the mercury allocations made to each State. The change resulted in very small decreases to the mercury budgets for six States.
 - Changing the NSPS limit for coal refuse-fired units from 1.4 to 16×10^{-6} lb/MWh.
 - Amending regulatory language to clarify that the Clean Air Mercury Rule does not apply to municipal waste combustors. Emissions from these facilities are controlled under a separate rule.
 - Correcting a number of technical aspects to clarify each of the final rules.
- In response to the remaining issues under reconsideration, EPA has determined that its decisions were reasonable and should not be changed.

BACKGROUND

- On October 21, 2005 EPA agreed to reconsider certain aspects of both these rules.
- The final rule, titled “Revision of December 2000 Regulatory Finding on the Emissions of Hazardous Air Pollutants From Electric Utility Steam Generating Units and the Removal of Coal- and Oil-Fired Electric Utility Steam Generating Units from the Section List,” was published in the Federal Register on March 29, 2005.
- EPA determined that the December 2000 finding lacked foundation and that recent information demonstrated that it is not appropriate or necessary to regulate coal- and oil-fired utility units under section 112 of the Clean Air Act. Based on the revised finding, EPA removed those utility units from the section 112(c) list of source categories.
- The final rule, “Standards of Performance for New and Existing Stationary Sources: Electric Steam Generating Units,” was published in the Federal Register on May 18, 2005. The rule, also called the Clean Air Mercury Rule, establishes standards of performance for emissions of mercury from new and existing coal-fired electric utility steam generating units.

FOR MORE INFORMATION

- To download the reconsideration notice and the final rules from EPA’s website, go to the following address: <http://www.epa.gov/air/mercuryrule/rule.htm>